

CAC 9442

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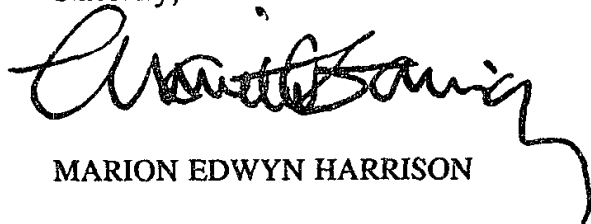
Jonathan A. Bernstein, Esquire  
Assistant General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: **Coalitions For America**  
**MUR 3774**

Dear Mr. Bernstein:

We file herewith the Answer of Coalitions For America.

Sincerely,



MARION EDWYN HARRISON

cc: **Coalitions For America**

FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Complaint of

Democratic Senatorial Campaign Committee

MUR 3774

**ANSWER OF COALITIONS FOR AMERICA**

**I. Introduction**

The Federal Election Commission ("FEC") by letter dated May 20, 1993, forwards a 208-page package to Coalitions for America ("CFA")

CFA is an independent entity, unrelated to any other, contrary to the allegations of the Complaint.

The Complaint herein is filed by Counsel for the Democratic Senatorial Campaign Committee ("DSCC") against the National Republican Senatorial Campaign Committee, correctly known as the National Republican Senatorial Committee ("NRSC"), evidently principally as part of a campaign to attempt to set aside, or otherwise impune, the election of Senator Paul R. Coverdell over former Senator Wyche Fowler, Jr., which occurred on November 24, 1992.<sup>1</sup> The

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<sup>1</sup> An action at law to set aside the election has been unsuccessful. *Public Citizen, Inc. v Miller*, \_\_ F 2d \_\_ (11th Cir, 1993), 1993 WL 177197 (Jun 14 93).

Complaint more readily is recognizable as a political polemic than a proper pleading.

CFA is named as one of four Respondents.<sup>2</sup>

## II. Issues

1. The Complaint is sufficiently inartfully drafted, and bereft of proffered evidence, that one finds difficulty in determining the issue or issues DSCC seeks FEC to investigate.

The relief, as prayed for by DSCC, is that FEC:

1. Conduct on an expedited basis an investigation of the facts set out above and determine the exact dollar amounts of illegal spending by the [NRSC];
2. Enter into a prompt conciliation with Respondents to remedy the violations alleged in this Complaint, and most importantly, to ensure that the violations will not recur; and
3. Impose any and all penalties grounded in violations alleged in this Complaint.

With respect to the Complaint, at 18, ¶1, the issue which DSCC appears to identify is

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<sup>2</sup> The other three Respondents named in the Complaint, at 3, are: "National Right to Life Committee", "American Defense Foundation" and "Good Government Committee, Montgomery, Alabama". None, upon information and belief, has a connection with the other or with NRSC. None has a nexus with CFA.

whether FEC, after "an investigation of the facts set out" in the Complaint, would find "illegal [sic] spending by" NRSC and, if so, the quantum.

As is more fully set forth infra, that issue does not implicate CFA.

2. In the Complaint, at 18, ¶2, DSCC requests FEC "to [e]nter a prompt conciliation agreement with Respondents ..."

Inasmuch as CFA neither has committed an unlawful act nor failed to take a required lawful step, there is no factual predicate for a conciliation with CFA.

3. In the Complaint, at 19, ¶3, DSCC requests FEC to impose penalties.

Inasmuch as no violation is alleged against CFA, there is no issue or remedy applicable to CFA.

### III. Argument

CFA is qualified pursuant to 26 USC §501(c)(4) as among those

... organizations not organized for profit but operated exclusively for the promotion of social welfare ... and the net earnings of which are devoted exclusively to charitable [or] educational ... purposes.

As such, CFA generally is precluded from utilizing its net earnings for, or in connection with, partisan political campaigns. Although CFA lawfully may engage in nonpartisan voter education and registration, Treas Reg §1.501(c)(4)-1(a)(2)(ii); Rev 81-95, 1981-1 CB322, CFA does not do so. Licht Affidavit, *Attachment One*. CFA also would be allowed under certain circumstances involvement in political activity, *Faucher v FEC*, 743 F Supp 64 (Maine, 1990), *aff'd* 982 F 2d 468 (1st Cir, 1991); *FEC v National Organizations for Women*, 713 F Supp 428 (D.C., 1989), but CFA does not so involve itself. Licht Affidavit, *Attachment One*.

Thus, contrary to the introductory broadbrush allegation in the Complaint, at 1, CFA not only has not "undertaken a significant and sustained effort to funnel 'soft money' into federal elections ..." but, in fact, neither directly nor indirectly, has contributed to, financed, participated in or "funneled" money, soft or otherwise, however defined, into a federal election. Licht Affidavit, *Attachment One*.

In an unnumbered section entitled *THE FACTS IN THIS CASE*, at 2, DSCC argues that there was a runoff election in Georgia in which many Republican leaders supported the candidacy of the ultimately successful Republican candidate, now Senator Coverdell. DSCC pieces together excerpts, largely from press stories, to paint, in the loosest and cloudiest of tints, a picture of some kind of undefined cooperation among identified and unidentified participants.

The following references, and none other, arguably relate to CFA.

REC'D - NOV 10 1992

The Complaint, at 3, correctly, but meaninglessly, states that CFA received donations from NRSC on October 20, 1992 in the sum of \$50,000.00 and on November 11, 1992 in the sum of \$40,000.00.

The Complaint, at 4, et seq, charges that CFA, according to a trade publication, is

A conservative lobbying organization which brings together a wide range of organizations for the purpose of coordinating strategy and organizing grass roots participation in the political process.

The foregoing excerpt, although not proven, essentially is true but, significantly, has nothing to do with political campaigns but rather with legislative activity, commonly called *lobbying* - a *raison d'être* of CFA.

The Complaint then confusingly and inaccurately attempts to weave together the strings of some kind of plot whereby CFA would be involved in prohibited political activity.

Beginning with the erroneous statement that CFA was "[c]reated as a subsidiary of [Mr. Paul M.] Weyrich's Free Congress Foundation [("FCF")] ...", when, in fact and in law, CFA is a separate, distinct and independent entity, the Complaint then seeks vaguely to link CFA to National Empowerment Television ("NET"), to the building of coalitions for legislative activity and, evidently by inference or innuendo, to link all the foregoing to partisan political campaigns.

None of this has anything to do with the 1992 Georgia senatorial contest or any other political election campaign.

The CFA connection with NET is that CFA sponsors those portions of those NET programs which directly or indirectly implicate grassroots lobbying. That sponsorship, as noted supra, is part of the very reason why CFA exists and is the usual function of most entities qualified under 26 USC §501(c)(4).

The Complaint, at 6, wallows in further confusion, alleging that "CFA has begun to establish state networks"<sup>3</sup> and that CFA has "§501(c)(3) tax status ..."

Aside from the fact that *networks* is a word of art, such that CFA, which is not a *broadcaster*, another word of art, could not be establishing *networks*, CFA has established, and is establishing, no television or other activity in Georgia or elsewhere.<sup>4</sup>

DSCC's thin reed is that CFA has received contributions from NRSC; the NRSC Chairman has "participated in CFA's activities"; and, ergo, CFA must be spending money on

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<sup>3</sup> CFA has not established, and is not establishing, state networks.

<sup>4</sup> If there is a "Georgia Empowerment Network", as the Complaint, at 6, claims that Exhibit 8 states, it is not part of CFA.

Georgia (or other, unnamed) political campaigns.<sup>5</sup> DSCC adduces not even hearsay to support this proposition and the facts are to the contrary. Licht Affidavit, *Attachment One*.

The Complaint, at 9, indulging an inference sweep that would make the late Senator Joseph R. McCarthy's approach (however one evaluates it) seem amateurish, argues that Mr. Curt Anderson, evidently a 1992 NRSC employee, once was employed by CFA; that Mr. Anderson's NRSC title at one time included the word *Coalitions*; that Mr. Anderson worked for NRSC in the South in 1992; and that, therefore, there are "Overlapping Interests" the nature of which, although undefined and not mentioning CFA, somehow must have caused CFA unlawfully to spend money. This syllogism dies aborning.

No quotation links CFA to the Georgia campaign, to any campaign or to the expenditure of any money for a political purpose. The Complaint, at 10, abruptly concludes that:

These overlapping interests are not coincidental, but rather reflect the systematic efforts of the Republican party [sic] to coordinate its election efforts with conservative organizations ...

There is neither allegation nor proffered evidence that CFA's interests have so overlapped; that the Republican Party has coordinated with CFA; that CFA has coordinated with [unnamed]

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<sup>5</sup> Exhibit 9 neither mentions nor refers to Senator Phil Graham, NRSC Chairman. However, the fact would be without significance if it did. There is nothing unusual about a donor to an organization, or the chairman of an organization donating to another organization, participating in some activity of the donee organization - in this case, presumably an educational meeting, inasmuch as that is what Exhibit 9 refers to.



"conservative organizations" for a political purpose;<sup>6</sup> or that CFA has utilized funds for a political purpose.

The Complaint continues, at 11, with what purports to be the "history of similar [sic] activities by [the] Republican Party" - again with neither allegation nor tie to CFA.

Finally, at 13, the Complaint purports to set out federal election law. One need not address the accuracy of the recitation because neither by allegation nor by proffered evidence does the recitation implicate CFA.

The DSCC recitation of federal election law, inaccurate for other reasons, subsumes that CFA had spent money in a political campaign - a sine qua non to any application of federal election law.

The mixture of recitation and argument concludes at 17-18, with the conclusory statement that NRSC clearly has used other organizations systematically to violate "... source restrictions and expenditure limits established for federal elections by law." DSCC then alleges "a strong likelihood" of further [sic] violations and requests (1) an FEC investigation; (2) "prompt conciliation with Respondents"; and (3) imposition of penalties (presumably upon NRSC), at 17-19.

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<sup>6</sup> CFA obviously coordinates with conservative organizations for legislative purposes although DSCC does not proffer evidence as to that lawful purpose.

The Complaint is solely innuendo, most of it facially contrary to fact. The limited DSCC proffered evidence is not supportive.

Exhibit 1<sup>7</sup> consists of photocopies of excerpts from newspapers which, as a fundamental rule of evidence, would prove, if admitted into evidence, only that the words and pictures were printed and not the truth thereof. However, if one ascribes literal truth to the contents - a rash assumption in view of the rampant editorialization, DSCC establishes, at most, that the Georgia race vigorously was contested; that there was much national interest in the race; and that victorious Senator Coverdell received support from a number of people and groups other than CFA.<sup>8</sup> There is no reference to CFA.

Exhibit 2 appears to be an excerpt from an NRSC Schedule B FEC filing. If so, it shows the two NRSC 1992 contributions to CFA and nothing more.

Exhibit 3 appears to be further FEC filing excerpts, purportedly by the National Right to Life Political Action Committee; further press stories; and an unsigned purported memorandum from somebody whom DSCC asserts was a campaign employee of defeated Senator Fowler. No such proffered evidence implicates CFA.

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<sup>7</sup> It would be helpful if Counsel for DSCC had followed the customary practice of numbering the pages of the record.

<sup>8</sup> Throughout the exhibits an anonymous hand has highlighted various words, sentences and paragraphs. These generally are no more relevant than those which are not highlighted.

Exhibit 4 purports to be an excerpt from a CNN transcript, which purportedly quotes Mr. Weyrich's making a statement notable for its lack of reference to a political campaign.<sup>9</sup>

Exhibit 4 continues with what appear to be excerpts from press clippings. In one such excerpt, triumphantly asterisked by an unidentified hand, Mr. Weyrich is quoted as expressing the unhappiness of conservatives with the Bush Administration and of reflecting the sentiment that conservatives:

... should forget about the Presidency and concentrate on Senate races and House races and term-limitation initiatives and other things that matter to us.

Exhibit 5 consists of excerpts from what appears to be a brochure or leaflet touting NET; an *Insight* signed piece further discussing NET and NET programming; and a David Gergen piece noting the innovation of NET.

The sole reference in Exhibit 5 to CFA is a discussion of CFA's legislative activity and reference to CFA's participation, in furtherance of this legislative activity mission, in NET.

DSCC apparently seeks to imply participation in a political campaign via a statement by an editorialist, one Shawn Miller, otherwise unidentified, which is asterisked, referring to somebody's alleged:

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<sup>9</sup> The excerpt, in fact, counters DSCC's theme, for it is a conclusory criticism of the Bush Administration!

... optimism regarding further activities in the states, with Georgia poised to follow Wisconsin as the next state affiliate.

The excerpt deals not with a political campaign but with local viewing site satellite dish affiliation with NET.

Exhibit 6 excerpts further clippings, this time apparently from *Policy Review*, which, inter alia, purport to quote, in the asterisked paragraphs, certain comments of Mr. Weyrich analyzing conservative activity in American churches. The excerpts, to the extent specific, also mention CFA in the context of incipient television activity. None of this material relates to a political campaign.

Exhibit 7 does not relate to CFA.<sup>10</sup>

Exhibit 8 appears to be the replication of part of Exhibit 5 and, in any event, does not relate to CFA.

Exhibit 9 is a CFA brochure describing, in summarized form, CFA's educational and coordinating activities, none referring to participation in a political campaign.

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<sup>10</sup> The exact material DSCC attaches to the Complaint herein is not fully identical, in sequence or contents, with the materials DSCC attaches to the Complaint as applied to FCF. This may be sloppiness rather than intent.

Exhibit 9 also contains information touting various NET television programs.

Exhibit 10 is yet another series of what appear to be newspaper stories, relating to Respondents other than CFA.

Exhibit 11 is further such excerpts, mostly about the *Christian Coalition*, with similar absence of citation or reference to CFA.

Exhibit 12, further excerpts, apparently all from *The Nation*, is mostly editorial comment, mostly about certain religious activity, none relating to CFA.

Exhibit 13 is a further newspaper clipping excerpt, with no relation to CFA.

Exhibit 14 appears to be further press stories, unrelated to CFA. One excerpt, evidently a *National Journal* piece dated December 9, 1989, "25 of 97 stories", contrary to the DSCC thesis, correctly notes that organizations qualified under 26 USC §501(c)(4)

... can engage in lobbying and in some political activity so long as political action is not the principal purpose. Many Washington interests groups are in this category ..."

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<sup>11</sup> The language appears at unnumbered 137 of the DSCC package, in the third page of the piece, under a heading UNANSWERED QUESTIONS.

Exhibit 15 consists of excerpted pages from *The Congressional Directory* and some press stories, unconnected with CFA. It appears to quote from a Weyrich statement about the significance of abortion as a political issue. Another excerpt passingly mentions Mr. Weyrich. There is further editorial discussion. As recurs from time to time, one of the few Weyrich quotations is less than affirmative about the Republican establishment. At 159, a piece about Judge Robert H. Bork, "41 of 43 stories", the anonymous highlighter has highlighted a 1987 reference to "Curt Anderson, president of Coalitions For America, an umbrella conservative group ..." That act of desperation is designed to establish that if Mr. Anderson were CFA President in 1987 and worked for NRSC in 1992, CFA must have participated unlawfully in a Georgia senatorial campaign.<sup>12</sup>

Exhibit 15 excerpts a 1991 George Archibald *Washington Times* piece, referring to a CFA gathering, hosted by Mr. Weyrich, of 40 national groups, in connection with the television pursuit and directly relating to grassroots lobbying.<sup>13</sup>

Exhibit 16 replicates what appears to be a piece from *National Journal*, with no reference to CFA.

Exhibit 17 consists of irrelevant excerpts from Senate debate as published in *The Congressional Record*.

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<sup>12</sup> This level of innuendo illustrates the desperation of those who drafted the Complaint.

<sup>13</sup> Package, at 166.

Exhibit 18 consists of further irrelevant congressional testimony.

The innuendo concludes.

#### IV. Conclusion

The most the Complaint establishes with respect to CFA, by virtue of required public disclosure, already is information in the public domain - namely, that NRSC, as arguably encouraged by 2 USC §439a, and consistent with law, donated \$90,000.00 in 1992 to CFA to further the legislative activity and educational purposes for which CFA exists and by virtue of which CFA is qualified for exemption from federal income taxation under 26 USC §501(c)(4).

If one fully accepts, arguendo, the truthfulness and accuracy of every hearsay statement in the Complaint, it remains clear beyond doubt that no evidence is proffered to implicate CFA in the expenditure of funds in connection with any federal election, including the November 3, 1992 Georgia senatorial election and the November 24, 1993 Georgia senatorial runoff election.

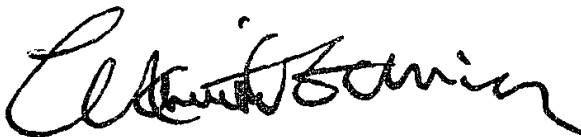
The Complaint appears to be a charade to attempt to set aside, or otherwise impune, the election of a United States Senator and to attempt to embarrass a number of organizations some of all of which have committed no unlawful act - and, in the case of CFA, have committed no act whatever relating to the subject matter.

CFA would jeopardize its 26 USC §501(c)(4) eligibility were it to make contributions or endorsements in a political campaign.

CFA has not done so. The proffered evidence does not link CFA to any such violation.

If DSCC had filed this Complaint in a federal court, the redress of Rule 11<sup>14</sup> would be applicable and those who signed the Complaint would risk sanctions.

FEC forthwith should dismiss CFA from MUR 3774.



MARION EDWYN HARRISON  
LAW OFFICES MARION EDWYN HARRISON  
107 Park Washington Court  
Falls Church, Virginia 22046  
703 532-0303  
Counsel for Coalitions For America

July 12, 1993

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<sup>14</sup> FR Civ P 11.



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Complaint of

Democratic Senatorial Campaign Committee

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MUR 3774

**AFFIDAVIT OF MR. ERIC M. LICHT**


Mr. Eric M. Licht, first sworn, deposes and says as follows:

1. I am President of Coalitions For America ("CFA").
2. If CFA had expended funds in connection with the 1992 Georgia Senatorial Runoff Election, or with respect to any other political campaign, I would know about it.
3. CFA has spent no money, directly or indirectly, in connection with the said Georgia political campaign or any other political campaign.
4. CFA is an entity qualified under the provisions of 26 USC §501(c)(4) .
5. CFA, as a matter of policy and in consideration of its tax status, does not participate in

political campaigns although under certain circumstances CFA lawfully could do so.

6. Twice in the calendar year 1992, National Republican Senatorial Committee ("NRSC") made a contribution to CFA, each time upon condition that the contribution was not to be used in any way to influence a federal election. Upon each occasion, CFA accepted the contribution subject to that limitation. Further, even without such limitation, CFA would not have expended the money or any part of it for, or in connection with, directly or indirectly, a political campaign.
7. The total of the two contributions to CFA was \$90,000.00. Those funds were deposited in CFA's regular account and were commingled with other funds of CFA, no part of which was spent for a political purpose.
8. Senator Phil Gramm, like many persons who hold, or have held, public office, has participated in CFA educational activity. He has not participated in any CFA campaign activity because there has been none.

Further Affiant sayeth not.

  
ERIC M. LICHT

District of Columbia

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City of Washington

Subscribed and sworn to before me this 9<sup>th</sup> day of July, 1993.

Rebecca Z. Samler  
Notary Public

My commission expires September 1, 1994

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